

1 PRESTON DUFAUCHARD  
California Corporations Commissioner  
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7  
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9  
10 BEFORE THE DEPARTMENT OF CORPORATIONS  
11 OF THE STATE OF CALIFORNIA

11	In the Matter of the Accusation of THE	)	File No.: 413-0391
12	CALIFORNIA CORPORATIONS	)	
13	COMMISSIONER,	)	<b>ACCUSATION</b>
14	Complainant,	)	California Financial Code §50311
15	v.	)	
16	OPTEUM FINANCIAL SERVICES, L.L.C.	)	
17	Respondent.	)	
18		)	

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20 The Complainant, California Corporations Commissioner ("Commissioner"), is informed and  
21 believes, and based upon such information and belief, alleges and charges Respondent as follows:

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23 **I.**

24 Respondent Opteum Financial Services, L.L.C. ("Opteum") is a residential mortgage lender  
25 and mortgage loan servicer licensed by the Commissioner pursuant to the California Residential  
26 Mortgage Lending Act (California Financial Code, § 50000 *et seq.*) ("CRMLA"). Opteum has its  
27 principal place of business located at 115 W. Century Road, Paramus, NJ, 07652.

**II.**

Pursuant to California Financial Code sections 50307 and 50401 and California Code of Regulations, title 10, section 1950.314.8, all licensees under the CRMLA are required to file the following annual reports with the Commissioner: (1) Report of Principal Amount of Loans and Aggregate Amount of Loans Serviced ("Activity Report"); (2) Report on Non-traditional, Adjustable Rate and Mortgage Loan Products ("Non-traditional Report"); and (3) Non-traditional, Adjustable Rate and Mortgage Loan Survey ("Survey"). The Activity Report, Non-traditional Report, and Survey must be filed with the Commissioner on or before March 1st of each year for the preceding twelve (12) month period ending December 31.

On or about February 1, 2008, an Activity Report form, Non-traditional Report form and Survey were sent to all CRMLA licensees, including Opteum, with a notice stating that these reports were due on or before March 1, 2008. The Commissioner assessed a penalty of \$1000.00 for the failure to submit these reports on or about May 15, 2008. To date, OPTEUM has not submitted the Activity Report, the Non-traditional Report or the Survey to the Commissioner or paid the assessed penalty.

**III.**

Pursuant to California Financial Code section 50200, all licensees under the CRMLA are required to file audited financial statements ("Audited Report") and an Independent Auditor's Report on Internal Controls ("Report on Internal Controls") with the Commissioner. Opteum was required to submit its Audited Report and Report of Internal Controls for its fiscal year ending December 31, 2007 to the Commissioner on or before April 15, 2008.

On or about December 17, 2007 and June 4, 2008, reminder notices were sent to Opteum reminding Opteum that these reports were due to be filed with the Commissioner on or before April 15, 2008. Opteum did not submit the Audited Report or Report of Internal Controls to the Commissioner, despite these reminder notices.

On or about August 1, 2008, a letter was sent to Opteum demanding that it file the Audit Report and Report on Internal Controls "within ten (10) days of the date of this letter." Opteum was

1 notified that failure to file the above reports would result in the referral of this matter to the Special  
2 Administrator for administrative action that may result in a fine pursuant to Financial Code section  
3 50326 and a revocation of Opteums' license pursuant to Financial Code section 50326. The  
4 Commissioner assessed another penalty of \$1000.00 for the failure to submit these reports on or  
5 about August 1, 2008. Opteum failed to submit the Audit Report and Report on Internal Controls. To  
6 date, Opteum has yet to file these reports or pay any of the assessed penalties.

7 **IV.**

8 California Financial Code section 50327 provides in pertinent part:

9 (a) The commissioner may, after notice and a reasonable opportunity to  
10 be heard, suspend or revoke any license if the commissioner finds that:  
11 (1) the licensee has violated any provision of this division or any rule or  
12 order of the commissioner thereunder; or (2) any fact or condition  
13 exists that, if it had existed at the time of the original application for the  
license, reasonably would have warranted the commissioner in refusing  
to issue the license originally.

14 **V.**

15 The Commissioner finds that, by reason of the foregoing, Opteum has violated California  
16 Financial Code sections 50200, 50307, 50326, 50401 and California Code of Regulations, title 10,  
17 section 1950.314.8, and based thereon, grounds exist to revoke Opteum's license as a residential  
18 mortgage lender and mortgage loan servicer.

19 WHEREFORE, IT IS PRAYED that the residential mortgage lender and mortgage loan  
20 servicer license of Opteum Financial Services, L.L.C. be revoked and, pursuant to Financial Code  
21 section 50311, Opteum Financial Services, L.L.C. be given a transition period of sixty (60) days  
22 within which to complete any loans for which it had prior commitments.

23  
24 DATED: September 24, 2008 PRESTON DuFAUCHARD  
Sacramento, CA California Corporations Commissioner

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26  
27 By \_\_\_\_\_  
Marisa I. Urteaga-Watkins  
28 Corporations Counsel